

# COMMITTEE REPORT

## MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1091, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 3, after "Sec. 9.5." insert "(a)".
- 2 Page 1, line 4, after "action" insert "**:**
- 3 **(1)**".
- 4 Page 1, line 6, delete "initiated maliciously, or groundless,".
- 5 Page 1, line 6, after "award" delete "the".
- 6 Page 1, line 7, delete "expenses of litigation, including" and insert
- 7 **"court costs and"**.
- 8 Page 1, line 8, delete "." and insert **"; or**
- 9 **(2) was a nuisance under this chapter and that the defense of**
- 10 **the nuisance action was frivolous, the court shall award court**
- 11 **costs, including reasonable attorney's fees, to the plaintiff in**
- 12 **the action.**
- 13 **(b) Reasonable attorney's fees under subsection (a):**
- 14 **(1) shall be calculated based on the reasonable and customary**
- 15 **hourly rates charged in the county in which the action**
- 16 **occurred; and**
- 17 **(2) may include fees for only one (1) attorney, no matter how**
- 18 **many attorneys were actually employed by the party.**
- 19 **(c) The determination that an action was initiated or maintained**
- 20 **frivolously may not be based on the mere fact that a party did not**
- 21 **prevail."**

- 1 Page 1, delete lines 9 through 17.
- 2 Page 2, delete lines 1 through 26.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1091 as reprinted February 1, 2012.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 6, Nays 3.

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**Bray**

**Chairperson**